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TECHNOLOGY CENTER 3600

In re Application of
Kurt Ryf et al.
Application No. 09/879,187
Filed: June 13, 2001
Attorney Docket No.: 39021-172671
For: METHOD FOR PRODUCING A
FUNCTIONAL HIGH-ENERGETIC
MATERIAL

DECISION ON PETITION
UNDER 37 CFR §1.181

This is a decision on applicant's petition under 37 CFR 1.181 filed May 19, 2004 requesting withdrawal of the holding of abandonment of the Office action mailed May 6, 2004 and reconsideration of the response filed on November 21, 2003.

The petition is **GRANTED**.

The record reflects that on April 10, 2003 a non-final Office action was mailed restricting the claims and additionally including a rejection of the claims under 35 USC 112 2nd paragraph. On July 9, 2003 applicant filed an election and response to the paper of April 10, 2003. On July 31, 2003 a supplemental response was additionally filed. On October 21, 2004 a notice of non-responsive amendment was mailed. Applicant responded on November 21, 2003. On May 6, 2004 a letter of abandonment was mailed. The notice of abandonment included statements that the letter of November 21, 2003 remained non-responsive.

In the petition filed May 19, 2004, applicant argues the completeness of the response mailed on November 21, 2003. In particular, the examiner argues that the addition of the term "powder" to claim 17 revives an issue that was never addressed in the original 35 USC 112-2nd rejections. A review of the claims originally submitted as well as claim 17 as now presented indicates that this term is used in a different context in the claim. Therefore, it is reasonable to interpret this claim in a different light and assume that the original rejection would not specifically address claim 17 as now written. Therefore, the response filed on November 21, 2003 is deemed adequate.

The petition is **GRANTED**.

The holding of abandonment is hereby withdrawn. Upon the mailing of this petition the application will be forwarded to the Supervisory Legal Instruments Examiner for the withdrawal of the abandonment. The application will then be forwarded to the examiner for consideration of the amendments filed November 21, 2003 and January 28, 2004.



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Mc/sm: 10/26/04

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